

Developments in the Law in 2019: Constitutional Law

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Abstract

This article reviews and introduces constitutional development in 2019 divided into dimensions of constitutional interpretations by the Judicial Yuan, legislations and events with constitutional significance. In general, the Grand Justices were continually enhancing the fundamental rights protection, including recognition of right to health, elimination of exception of right to sue for students and civil servants, and demanded on more exact proportionality between liability and punishment. The Constitutional Court also argued the constitutionality of pension reform measures for military personals, civil servants and public schools teachers with scientific evidences, and pointed out the constitutional limit for the further public pensions reforms. Moreover, although more than half of electorate voted no through referendum to same-sex marriage, in 2019 the Legislative Yuan has passed the Implementation Act of the Y. J. Interpretation No. 748 for constructing the legal basis for the same-sex marriage; the Referendum Act was therefore revised.

On the other hand, in Taiwan, the democracy system and the open and diverse society are jeopardized by the impacts from Chinese government and by the dissemination of disinformation through social media which destroys the tolerance and the foundation of mutual trust in our society. In addition, the international situation among China, Hong Kong, Taiwan and other states has also changed dramatically. Against this background, in 2019 several acts in relation to regulation of dissemination of disinformation and other five legislations focusing on the issues of national security were enacted or amended. Also, the drafts of

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Refugees Act and Foreign Agents Registration Act were submitted in this context. This legislative discussion indicates not only how the citizens reidentify the statehood of Taiwan, but also how far the consensus of people in Taiwan on the liberal and democratic constitutionalism has been reached. Whether in the future we can still live in a democratic society and enjoy human rights, depends on the consensus on the statehood of Taiwan and on the constitutionalism.

Keywords: pension reform, right to health, right to hold public offices, besonderes Gewaltverhältnis, Act for Implementation of J. Y. Interpretation No. 748, referendum, disinformation, five acts relating to national security, Refugees Act, Foreign Agents Registration Act